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STATE OF WASHINGTON
2017 JAN 30 AM 8:51

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

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|---------------------------|---|-------------------------|
| STATE OF WASHINGTON, |) | No. 74206-0-I |
| |) | |
| Respondent, |) | |
| |) | |
| v. |) | UNPUBLISHED OPINION |
| |) | |
| JOSE CARLOS SANCHEZ-RUIZ, |) | |
| |) | |
| Appellant. |) | FILED: January 30, 2017 |

SCHINDLER, J. — A jury convicted Jose Carlos Sanchez-Ruiz of one count of domestic violence assault in the second degree by strangulation in violation of RCW 9A.36.021(1)(g) and RCW 10.99.020. The court waived imposition of all discretionary legal financial obligations (LFOs) except the \$100 domestic violence penalty under RCW 10.99.080(1). Sanchez-Ruiz argues the court violated RCW 10.01.160(3) by imposing the discretionary domestic violence penalty without making an individualized inquiry into his ability to pay.

RCW 10.01.160(3) states:

The court shall not order a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

In State v. Blazina, 182 Wn.2d 827, 837-38, 344 P.3d 680 (2015), the Supreme Court held that RCW 10.01.160(3) requires the sentencing court to engage in an

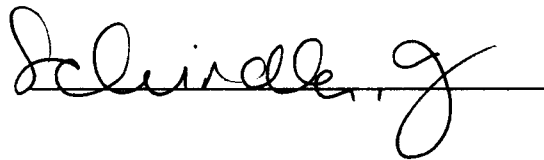
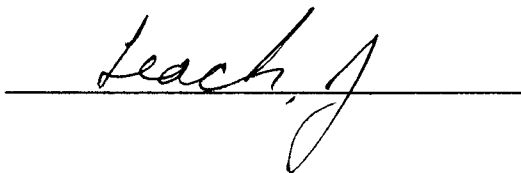
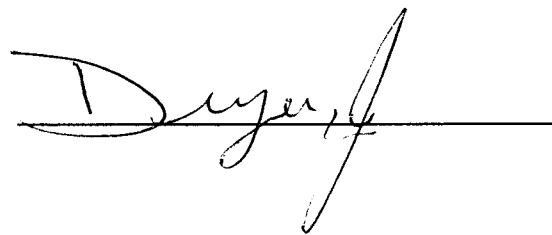
individualized inquiry on the record into the defendant's current and future ability to pay before imposing discretionary LFOs.

RCW 10.99.080(1) gives the court the discretion to impose a domestic violence penalty assessment. RCW 10.99.080(1) states, in pertinent part:

All superior courts, and courts organized under Title 3 or 35 RCW, may impose a penalty assessment not to exceed one hundred dollars on any adult offender convicted of a crime involving domestic violence.^[1]

The State concedes the court did not make an individualized inquiry into Sanchez-Ruiz's ability to pay and requests remand to strike imposition of the domestic violence penalty. We accept the State's concession as well taken and remand to strike imposition of the domestic violence penalty under RCW 10.99.080(1).

WE CONCUR:

A handwritten signature in cursive script, appearing to read "Schneider", written over a horizontal line.A handwritten signature in cursive script, appearing to read "Leach", written over a horizontal line.A handwritten signature in cursive script, appearing to read "Dyer", written over a horizontal line.

¹ Emphasis added.